IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

: O R D E R :

S.B. Criminal Revision Petition No.490/2007.
(Suva Lal & Others Vs. State of Rajasthan)

DATE OF ORDER : May 29, 2007

P R E S E N T

Hon'ble Mr. Justice Gopal Krishan Vyas

Mr. R.K. Charan for petitioner.
Mr. S.N. Tiwari, P.P. for the State .

BY THE COURT :

Heard learned counsel for the petitioner.

Issue notice. Learned Public Prosecutor Shri S.N. Tiwari accepts notice.

At the outset, counsel for the petitioner invited attention of the Court towards orders dated February 02, 2006 passed by this Court in S.B. Criminal Misc. Petition No.127/2005, Brij Lal Vs. State of Rajasthan and dated March 07, 2006 passed in S.B. Criminal Misc. Petition No.271/2006, Nihal Singh Vs. State of Rajasthan and submitted that in the facts and circumstances of the case, similar directions may be issued in the present matter also.

In Brij Lal Vs. State of Rajasthan, this Court carefully considered the question in the light of the decision of the Supreme Court in the case of State of Karnataka Vs. K. Krishnan, reported in 2000 Cr.L.R. (SC) 657

and found difference in circumstances to lead to the conclusion that the condition of furnishing bank guarantee is onerous and the same may be substituted by the condition of executing personal bond and furnishing solvent security to the satisfaction of the Court. In the said case, it was vehemently urged on behalf of the petitioner that in the State of Rajasthan forest produce is markedly different on account of eco-geological and other governing features and, therefore, the faggot wood collected in the agricultural fields for kitchen fire should not be misnomered for forest produce. It was also considered that in Rajasthan identical shrubs and trees grow in the agricultural fields also as in forests and which is main source of kitchen fire in rural Rajasthan. Having considered the matter on its various aspects, there appeared certain degree of difference between the provisions of the Karnataka Forest Act and Rajasthan Forest Act, therefore, appreciation of the facts and circumstances of the case in respect of application of the provisions of the Rajasthan Forest Act need also be made in different perspective.

Counsel for the State opposed the petition. It is contended by the learned Public Prosecutor that in this case the trial Court has rejected the application of the petitioner for release of the vehicle on supardginama and, therefore, the case on hand is not covered by the decision of this Court referred to by learned counsel for the petitioner.

I have considered the rival submissions.

The petitioner has submitted that presently in the fields it is tillage and preparation time for raising crops and the tractor-trolley is lying in the police station without useful avail during investigation.

In the facts and circumstances of the case, in my opinion, the

vehicle in question alongwith trolley may be released to the petitioner on supardginama.

Consequently, the impugned order dated 01.05.2007 passed by the Judl. Magistrate, Begun (Distt. Chittorgarh) on the application moved by petitioners under Section 451, Cr.P.C. in FIR No.79/2007, P.S. Parsoli is set aside. The trial Court is directed to release the tractor and trolley in question on supardginama to the petitioners provided the petitioners execute personal bond in the sum of Rs.1,50,000/- and furnish one solvent security in the like amount to the satisfaction of the trial Court with undertaking to be jointly and severally liable, on such usual terms and conditions as may be deemed fit and necessary by the trial Court.

The petition stands disposed of.

(Gopal Krishan Vyas) J.

Ojha, a.